

# Why is the City of Falls Church proposing changes to its historic preservation ordinance?

In May 1984, after years of public input and debate, the Falls Church City Council adopted the Historic and Cultural Conservation District (HCC Ordinance)—Section 38-39 of the City Code—to protect structures constructed during or before 1910. The Ordinance has since been amended to create a five-member Historical Architectural Review Board (HARB) review board and to provide protection of ancillary structures constructed on historic properties.

Over the years of reviewing applications for permits required by the HCC Ordinance in order to demolish or move protected structures in the historic district, HARB has identified ambiguities in the Ordinance text that sometimes make enforcement difficult. Additionally, some protected properties have been demolished and a recent survey of properties constructed between 1910 and 1930 indicates that more than a dozen additional properties have been lost or altered significantly.

A comprehensive review of the HCC Ordinance or a comparison of the City's historic preservation ordinance with federal, state, and local regulations had not been conducted in over 20 years. The City's Comprehensive Plan, last adopted in 1997, recommended a review of and amendments to the HCC Ordinance. Such a review and comparative analysis began in late 2002 and was completed a year later. A comparison of the City's historic preservation ordinance with federal and state enabling legislation found that the City now has greater authority to identify, study, and protect its cultural resources than when the City first adopted the HCC Ordinance. Furthermore, changes in federal and state legislation, if adopted by the City, would provide property owners with opportunities to apply for federal and state tax credits for rehabilitation of protected properties.

Many states and localities have enacted laws to encourage the preservation of their historic places. Some have enacted their own identification procedures, but many use the National Register of Historic Places listings as indicators of historical significance. A listing on the Virginia Landmarks Register or the National Register may encompass individual buildings or entire districts. These properties have been identified as lasting examples of our state's and nation's pasts.

National Register or Virginia Landmarks Register designations bring no restrictions to a property. Rather, there are benefits to a property owner. For example, income producing properties such as museums, businesses, and rental properties may qualify for federal rehabilitation tax credits. Non-income producing properties such as private homes can be eligible for state rehabilitation tax credits. This means that if you want to fix up your property, you may qualify for a tax break on the money you spent on the rehabilitation. Virginia and federal designations may also provide some protection against the possible harmful effects of state or federal funded, licensed, or assisted projects.

A local historic district is created and designated by local ordinance and falls under the jurisdiction of a local preservation review committee which deals with the appearance of the district. The designation of the local district protects significant properties and historic character of the district. It provides communities with the means to ensure that growth, development, and change occur in ways that respect important architectural, historical, and environmental characteristics.

## What changes are proposed to the City's Historic and Cultural Conservation (HCC) District Ordinance?

ACTION	EXISTING	PROPOSED
Base City's ordinance on enabling legislation.	Based on local criteria with a citywide overlay district, which includes the entire city.	Based on national and state enabling legislation with a citywide overlay district. Provides opportunity to create specific smaller districts in the future.
Decision making authority.	City Council delegates authority to the Historic Architectural Review Board (HARB) to approve/deny applications to raze (demolish) or to move protected structures, and to review (advisory only) applications for exterior alterations. The HARB is also delegated authority to approve/deny/modify applications to raze, move, alter, or construct ancillary structures.	Delegates HARB authority to approve, approve with conditions, or to deny applications to alter, move, or raze any structure or feature on a protected property; and creates an administrative approval process for in-kind replacements and for emergency repair of storm damage. Following a public hearing on an application, the HARB must issue a "Certificate of Appropriateness" before any building permits can be issued.

ACTION	EXISTING	PROPOSED
Nomination of properties and districts for protection.	The Historical Commission identifies, studies, and recommends designation of properties to the Planning Commission. The Planning Commission then makes a recommendation to the City Council, which approves or denies the designation.	The HARB would serve as an "umbrella" for all public and private cultural resource activities. The HARB could request the Historical Commission, staff, or others to conduct studies or to seek funding for studies of properties, to prepare nominations to the National Register and/or the Virginia Landmarks Register, to recommend specific historic districts, etc. The HARB would present all recommendations/ findings to the City Council for action.
What is protected?	All structures built as residences during or before 1910 and properties identified and designated as "Special Merit".	All properties built pre-1931, plus post 1910 Special Merit properties already designated. Provide ability to designate specific cluster districts, as well as archaeological properties. Moving the date for protection would encompass most structures built in the Craftsman style, as well as others built during that period.
Maintenance of properties required.	Routine maintenance to a "... degree sufficient to prevent damage to the structural components and/or the exterior that would cause the collapse of the structure or that would cause the building to become so deteriorated as to prevent its repair and preservation."	Require preservation against decay and deterioration, and maintained free from structural defects to the extent that such decay, deterioration or defects may result in the irreparable deterioration of any exterior appurtenance or architectural feature, or produce a detrimental effect upon the life and character of the structure itself, including but not limited to the deterioration of: exterior walls or other vertical supports, roofs or other horizontal members; exterior chimneys; and exterior plaster or mortar; ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors; peeling of paint, rotting, holes, and other forms of decay; lack of maintenance of surrounding environment such as fences, gates, sidewalks, steps, accessory structures; or the deterioration of any feature so as to create or to permit the creation of any hazardous or unsafe condition or conditions.
Enforcement.	The HARB works with the Building Official to identify and correct "demolition by neglect" provisions of the Ordinance. Criminal and civil penalties exist apply because the HCC Ordinance is part of the Zoning Ordinance.	Requires an application for a Certificate of Appropriateness for all exterior work that requires a building permit before work begins. Failure to comply with an approved Certificate of Occupancy may result in associated permits being revoked, a stop work order, or a zoning violation notice. Adds reference to the Code of Virginia enabling legislation for criminal and civil penalties.

## What other changes are proposed?

The Ordinance amendments would:

- Provide an opportunity to amend or to rescind a designation;
- Provide an opportunity for a property owner/agent to meet with the HARB and/or staff to discuss a proposal before any expense is incurred to prepare application materials;
- Define what should be submitted with an application for consideration by the HARB, to promote a decision in one public hearing;
- Base HARB decisions on the Design Guidelines for Historic Structures adopted by the City Council in December 2001;
- Define economic hardship;
- Encourage protected structures moved from the original property to remain in the City and to be moved to a location that is harmonious with the historical and architectural aspects of the structure; and
- Define the City Council's review process when considering an appeal of a HARB decision.

## What does the Ordinance not cover?

The amendments proposed would not regulate paint color. Generally, only work requiring a building permit would be covered with the exceptions of roof or window replacement and installation of vinyl siding. Those exceptions would require an application and review by staff or the review board.

The City looks forward to working with those residents whose properties will soon become historic landmarks in the City. For more information on the City's process to changing its current historic preservation ordinance, please contact the Planning Division at 703-248-5040.

